

## REMARKS

Claims 1-3, 5-12, and 14-19 are pending in the application. Claims 1, 10, and 19 are in independent form. Favorable reconsideration is requested.

Reconsideration is respectfully requested of the rejection of Claims 1-3, 5-12, and 14-19 under 35 U.S.C. §103(a), as being obvious over U.S. Patent Publication No. 2003/0193898 (“Wong”) in view of U.S. Patent No. 6,658,479 (“Zaumen”) and U.S. Patent Publication No. 2003/0174644 (“Yagyu”).

It is respectfully submitted that the combination of Wong, Zaumen, and Yagyu fails to teach or suggest “a communication cost calculating unit that determines a type of failure from among a plurality of types of failures and calculates a communication cost of each route, based on the line condition information in the route and the determined type of failure,” as recited in independent Claim 1, and similarly in independent Claims 10 and 19. (emphasis added)

The Office Action on page 3 concedes that Wong and Zaumen fail to teach or suggest the aforementioned features of the present invention, and cites paragraph [0010] of Yagyu as curing these deficiencies.

Paragraph [0010] of Yagyu states:

[0010] In conjunction with the above description, a communication network fault restoring system is disclosed in Japanese Laid Open Patent Application (JP-A-Heisei 9-307577). In this conventional example, a working path as a route between nodes in which data to be transmitted is not changed has a group of signals to which same fault restoration capability is required. A part of the currently used link is composed of a plurality of working paths or backup paths to which almost same fault restoration capability is required. One of the first to fourth spare resource preparing modes is used as a spare resource preparation mode to the working path in accordance with the fault restoration capability. In the first spare resource preparing mode, a backup path of an exclusive use for the

working path is prepared. In the second spare resource preparing mode, a backup path is prepared to share with another backup path to the working path. In the third spare resource preparing mode, a spare link of an exclusive use is prepared to a part of the currently used link in which a part of the working paths is accumulated or to a continued part of a plurality of partial currently links. In the fourth spare resource preparing mode, a share path is prepared to share with another spare link to a part of the currently used link in which a part of the working paths is accumulated or to a continued part of a plurality of partial currently used links. Thus, a communication network can be configured to have a path with a cost determined in accordance with fault restoration capability to the network in which various fault restoration rates are required. (emphasis added)

Yagyu discloses “a cost determined in accordance with fault restoration capability.”

However, Yagyu fails to teach or suggest that this cost is calculated “based on the line condition information in the route and the determined type of failure,” as recited in independent Claim 1, and similarly in independent Claims 10 and 19.

In other relevant paragraphs, at best Yagyu discloses:

[0007] ...

In this case, it is possible to allocate various costs to links based on a communication rate and the policy of an administrator and so on.

...

[0042] ...

It should be noted that the cost of the link is a measure used to determine the route to be selected when a path is set, and is a value set based on a communication rate and a policy of the administrator.

However, the above paragraphs likewise fail to teach or suggest that a cost is calculated “based on the line condition information in the route and the determined type of failure,” as recited in independent Claim 1, and similarly in independent Claims 10 and 19.

Accordingly, it is respectfully submitted that independent Claims 1, 10, and 19, and the claims depending therefrom, are patentably distinct over Wong in view of Zaumen and Yagyu.

In view of the remarks set forth above, this application is believed to be in condition for allowance which action is respectfully requested. Should the Examiner consider this application not to be in condition for allowance, the Examiner is invited to telephone the undersigned attorney at the number listed below prior to issuing a further action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,

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Docket No.: FUSKA 21.005 (100808-00057)

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